



# SPIRIT LAKE TRIBE

**Myra Pearson**

*Chairperson*

Cell: 701-230-4975

R08-17-C-005

December 7, 2016


US EPA Region 8  
Attention: Mrs. Christina Wilson  
1595 Wynkoop Street (EPR-B)  
Denver, CO 80202-1129

Dear Mrs. Wilson:

The Spirit Lake Tribe is pleased to submit this application for the Brownfields Cleanup Project of the Sheyenne Re-Locatable homes in Benson County. The Tribe is greatly concerned about the health and welfare of its members and of the dangers these homes are creating to our people, particularly the children, elders and the sick. If we can clean up our Brownfields sites and bring them back into productive reuses, we can make our land safer for ourselves and future generations, eliminate eyesores, and provide needed job and recreational opportunities.

I support the Tribal Environmental Protection Administration's Brownfields Program in receiving funding to address environmental concerns at the Sheyenne Re-locatable homes in the Rolling Hills Housing. As stated in the Spirit Lake Tribe's Strategic Recovery Plan, the Tribe is committed to finding ways to remove hazardous homes from the communities and to develop new housing while reusing the current infrastructure. The Tribe has committed its resources to add at least 20 more homes as part of its identified housing needs. This way we can move back into maintaining a balance with nature and restore a better quality of life for our Tribal members.

Sincerely,



Myra Pearson, Chairwoman  
Spirit Lake Tribe

# Narrative Proposal/Ranking Criteria for Cleanup Grants

## IV.C.3.1 Community Need (15 pts.)

### IV.C.3.1.a Target Community and Brownfields (7 pts.)

#### IV.C.3.1.a.i Community and Target Area Descriptions

The Spirit Lake Tribe, with a Reservation population of approximately 4,238 is located in East-Central North Dakota. The Reservation covers 383 square miles and exhibits flat terrain, rolling hills and wooded areas. There are five Indian Bands, most of who reside in four community districts and five townships. The unemployment rate is 56.5% on the Reservation.

Approximately, 69.2% of the families are below the poverty rate in the targeted community. The area experienced excessive flooding in the 1990 reclaiming farmland and residential areas.

Devils Lake, which does not have a natural outlet and borders the Reservation on the north and west, has risen in recent decades. It has lost homes, land and economic opportunities due to the severity of this problem. Being in a rural area of a rural state, resources are limited from Tribal and non-Tribal sources to address any issues including environmental problems. The Tribe does not have enough housing on the Reservation for its members and is always trying to find ways to provide decent and safe units to live in. Many extended family members live together in crowded conditions and most times in substandard housing. Over 300 families are on a wait list for housing. The Tribe has low rent housing units, HUD homes, and mutual self-help homes in the four major Reservation communities. Rural farmsteads consist of privately owned homes and mutual help scatter sites.

#### IV.C.3.1.a.ii Demographic Information and Indicators of Need

	Sheyenne Houses in Ft. Totten, ND	Spirit Lake Tribe Reservation	Benson County, ND	State of ND	National
<b>Population</b>	1243 <sup>5</sup>	4,238 <sup>3</sup>	6,877 <sup>4</sup>	723,393 <sup>1</sup>	316,128,839 <sup>1</sup>
<b>Unemployment</b>		56.5% <sup>6</sup>		2.8% <sup>2</sup>	5.8% <sup>2</sup>
<b>Poverty Rate</b>	69.2%		35.7%	12.1%	14.9%
<b>Percent Minority</b>	98.1% <sup>5</sup>	84.6% <sup>3</sup>	56.6% <sup>4</sup>	10.4% <sup>1</sup>	22.3% <sup>1</sup>
<b>Per Capita Income</b>	\$7,216 <sup>7</sup>		\$17,220 <sup>4</sup>	28,700 <sup>1</sup>	\$28,051 <sup>1</sup>
<b>Median Household Income</b>	\$21,551		\$34,706 <sup>4</sup>	\$51,641 <sup>1</sup>	\$53,046 <sup>1</sup>

<sup>1</sup>Data is from U.S. Census Quick Facts 2013 at <http://quickfacts.census.gov/qfd/states/38000.html>

<sup>2</sup>Data is from Bureau Labor November 2014 and is available at <http://www.bls.gov/eag/eag.nd.htm>

<sup>3</sup>Data is from North Dakota Indian Affairs Commission 2010 at <http://www.nd.gov/indianaffairs/?id=37>

<sup>4</sup>Data is from U.S. Census Quick Facts 2013 Benson at

<http://quickfacts.census.gov/qfd/states/38/38005.html>

<sup>5</sup>Data is from U.S. Census Quick Facts 2013 Fort Totten

<http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>

<http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>

<sup>6</sup>Data is from 2013 American Indian Population and Labor Force Report and is available at

<http://www.bia.gov/cs/groups/public/documents/text/idc1-024782.pdf>

<sup>7</sup>City-data Fort Totten 2009 at <http://www.city-data.com/city/Fort-Totten-North-Dakota.html>

#### **IV.C.3.1.a.iii Brownfields and Their Impacts**

The Sheyenne Re-locatable Homes located in the Community of Fort Totten, Benson County, North Dakota on the Spirit Lake Reservation were acquired by the Spirit Lake Tribe in the early 1990's to supplement the Tribe's housing needs. These homes were built in the 1970's, and like structures typical for the time-period and verified in the Phase II ASTM Environmental Site Assessment, contain asbestos (ACM) and lead based paint (LBP). With over 300 families on the housing waiting list, it is very important that these homes become a safe and healthy environment for Tribal members to reside in. The Tribe cannot afford to have so many abandoned homes with so many families waiting for housing. The Tribe is considering re-use of the homes if possible, and if not, the demolition of the buildings in order to re-use the site. The Tribal Brownfields Program has completed several Brownfields cleanups since 2005, including remediation of asbestos and lead in 30 former Air Force Base homes, an old hospital, mental health clinic, three community/youth center, wellness center, food pantry, old school, church. The cleanups were completed under Tribal Brownfields funding, Brownfields Cleanup grants, the Spirit Lake Tribe and grants from Shakopee Tribe. Many others sites have received assessments and the Tribes struggles to find cleanup funding. Additionally, in a joint effort with the State of North Dakota, several Environmental Site were completed for the Historic Fort Totten Complex identifying measurable amounts of asbestos and lead. Throughout the years, many open dumps have been identified and inspected with information forwarded to Indian Health Service (IHS) for inclusion in its Solid Waste Survey Database. Several high prioritized dumps were cleaned up with limited Tribal funds.

#### **IV.C.3.1.b Welfare, Environmental, and Public Health Impacts (4 pts.)**

##### **IV.C.3.1.b.i Welfare Impacts**

These abandoned homes, although boarded up, are being broke into which are then being used to conduct illegal activities as related to methamphetamine labs, drug activities, theft and vandalism. These sites are also an attractant for children to play. With these illegal activities taking place there is a constant fear of children getting hurt at these sites. Additionally unknown parties continually break into the home, vandalizing and salvaging and potentially release contamination into the environment.

##### **IV.C.3.1.b.ii Cumulative Environmental Issues**

Because of repeated flooding and the rising of Devils Lake (over 27 feet), the Reservation has continually been losing homes. Furthermore, homes cannot be built in low lying flood prone areas. One solution has been to accept 84 re-locatable houses from Minot Air Force Base which could be re-located as needed due to rising waters. Throughout the years, the Tribe has provided maintenance on the structures and attempted to manage any contamination, but through normal deterioration the majority of the re-locatable homes on the Reservation are no longer cost effective to maintain. Therefore, the Tribe finds it is more cost effective to remove the structures rather than repair contaminated and dilapidated houses, which can be replace with new homes on land that is flood protected with infrastructure already in-place.

Most of our housing structures and public buildings were built in the time period when asbestos products and lead-based paint were widely used. It has been very difficult for us to secure

funding to address these problems. In the past, we received an EPA and HUD Lead grant that let us identify which housing and public day care centers with children present contained lead-based paint problems and then completed blood screen tests for selected children. We will still need to secure funding to deal with mitigation of the lead issues in the homes and day care centers, treating the potentially negatively affected children, and developing an outreach training and education lead program.

In addition to aging and abandoned homes, there are a number of other environmental and health hazards due to the many abandoned or underutilized buildings on the Reservation. These include old schools, churches, administration and community buildings and facilities. We are very concerned about various populations that find their way into such abandoned buildings, including children, teenagers, vagrants, and people salvaging and vandalizing the sites or even conducting illegal activities such as methamphetamine production. The Tribal Housing Programs, Tribal Police and the Environmental Protection administration have all identified potential meth houses, but lack sufficient funding to address the situation.

The Tribe has been working with EPA to improve working conditions and obtain air-monitoring devices (and appropriate training to monitor) for a manufacturing plant that has long been perceived by certain community groups as emitting contaminants harmful to nearby populations. Dealing with old landfills, costs for current disposal, and illegal dumping are also all major concerns on the Reservation.

With the expansion of oil and gas exploration in North Dakota, many actions at the level of the State of North Dakota State, tribes and the private sector are expected to impact the Spirit Lake Nation. These actions can have serious impacts with environmental, economical, societal, and cultural implications. Impacts can only be identified if current conditions are known, which would lead to proper planning, strategies to avoid disasters which are beyond repair, and protection of the Spirit Lake people environment, values, welfare, and way of life. If action is not taken now, our leadership is very concerned for our yet unborn.

#### **IV.C.3.1.b.iii Cumulative Public Health Impacts**

Many homes on the reservation are crowded (1 person or more per 100 sq. ft. of home), and occupied by our sensitive population (children and elders) living their daily lives in unhealthy environmental conditions created by mold, lead, asbestos, pest, and inadequate weatherization. Additionally, many of the housing units are modular structures having a limited life span, being difficult to maintain and creating waste disposal issues when cleaned up and demolished. This situation is increasingly putting our populace and environment at higher risk, with escalating healthcare implications. The Spirit Lake Nation is in a constant reactive mode rather, and often finds itself stressed with little to no funds available to maintain or address these issues. Examples include recent mid-winter abandonment of an alternative school building in Fort Totten, children and families forced to stay in condemned homes because they have no place to go, and food pantries in our communities that are infested with mold, asbestos, and lead, among other contaminants.

Abandoned buildings such as the Sheyenne Re-locatable homes are attractive nuisances for youth, drug/alcohol consumption, meth labs and salvagers; increasing the potential to come into contact with asbestos, lead, hazardous substances, pollutants and contaminants. According to the Center for Disease Control (CDC), direct contact and ingestion of asbestos, a known carcinogen, can cause lung cancer and mesothelioma, a form of neoplasm of the lining of the chest and abdominal cavities. Cancer of the larynx has also been associated with exposure to asbestos.

CDC further states that hazards related to breathing or eating lead-based paint dust in adults this may include difficulties in pregnancy, other reproductive problems, high blood pressure, nerve disorders, memory and concentration problems, muscle and joint pain and digestive problems. In children and babies, lead levels are more dangerous and include damage to the brain and nervous system, behavioral and learning problems, slowed growth, hearing problems, and headaches. The CDC website provides information on its website correlating health hazards from Black Mold and other types of mold to respiratory and asthma problems.

#### **IV.C.3.1.c Financial Need (4 pts.)**

##### **IV.C.3.1.c.i Economic Conditions (2 pts.)**

With already limited funding, resources and 300 families waiting for a home to live in, the Cleanup Grant would allow for the Tribe to spend its limited funds on other important issues and enable families to benefit from safe living conditions as the contaminated homes are removed and new homes constructed on the same sites. Small population and high unemployment and poverty rates are also contributing factors. The Reservation's economy has suffered by the isolation from population centers. With fuel prices being so high in recent years; transportation to rural areas of rural states has been more limited. Privately owned businesses on the Reservation are few with limited resources and the high unemployment rate has engendered poverty and alcohol abuse among many members.

There have been economic cutbacks, decreasing the amount of awarded grant dollars each year. This is reducing the ability of our programs to take appropriate actions towards areas of need on the Reservation or from off-Reservation large scale economic development projects.

Additionally, the Tribe has experienced many disasters and emergencies, which compelled the Tribe to commit funding and address rather than apply toward environmental cleanups. The area experienced excessive flooding in the 1990s that has continued up to the present day flooding farmland and residential areas. Devils Lake, which does not have a natural outlet and borders the Reservation on the north and west, has risen in recent decades. The rise of Devils Lake (over 27') resulted in limiting access to Tribal services and businesses including tourism and attendance at the Tribal Casino enterprise resulting in economic losses and reduction of jobs. It is a continual process for the USCOE to conduct and repair roads which serve as berms holding back the waters of Devils Lake from further flooding the Reservation. Some roads are under water and have been closed permanently. The road activities cause disruption for residents and visitor to the Reservation.

Environmental Justice issues are increasing as the Tribes and State of North Dakota are expected to have impacts associated with the expansion of oil and gas exploration and production in North Dakota. These actions can have serious impacts with environmental, economical, societal, and

cultural implications. Impacts can only be identified if current conditions are known, which would lead to proper planning, strategies to avoid disasters which are beyond repair, and protection of the Spirit Lake peoples environment, values, welfare, and way of life. If action is not taken now, our leadership is very concerned for our yet unborn.

Benson County where Ft. Totten is located, received the following FEMA Presidential Declarations: 2014 (#4190) for Severe Storms and Flooding; in 2013 (#4154) for Severe Storms and Flooding; in 2011 (#1981) for Flooding; in 2010 (# 1907) for Flooding; in 2010 (#1901) for Severe Winter Storm; in 2009 (#1829) for Severe Storm and Flooding. Also, in 2012, the USDA declared Benson County, ND an agriculture disaster due to drought conditions in the non-flooded areas.

The Tribe has also been impacted from military base reductions. Grand Forks Air Force Bases is approximately 90 miles and Minot Air Force Base approximately 150 miles from Reservation. These are both a source of jobs for tribal members. Both have experienced great reductions in recent years. Ironically, the Sheyenne Re-locatable Houses, with asbestos and lead contamination and of which this Brownfields Cleanup Grant Proposal hope to address, came from Minot Air Force Base during the reduction of services at the Base.

#### **V.C.3.1.c.ii Economic Effects of Brownfields (2 pts.)**

According to the 2010 – 2012 U.S. Census and City-Data, approximately, 69.2% of the families are below the poverty level in the targeted Community of Fort Totten where the Sheyenne Houses are located, which is about three time higher than the State rate at 12.1% and the Nation at 14.9%. Benson County where a large number of Tribal residents live (56.6% minority) also has a high Poverty Level at 37.7%. Low incomes are reflective in that many Tribal families struggle to get by and find it difficult to live in affordable housing. Over 300 families are on a wait list for housing resulting in extended family members live together in crowded conditions and most times in substandard housing. The Tribe has low rent housing units, HUD homes, and mutual self-help homes in four major Reservation communities. Rural farmsteads consist of privately owned homes and mutual help scatter sites. All of these statistics-reflect the high unemployment and underemployment which are typical of the Reservation. Per Capita income for the targeted Community is \$7,216. Note Benson County is more than double at \$17220; and the State and Nation are more than triple at \$28,700 and \$28,051 respectively.

According to the 2013 American Indian Population and Labor Force Report, the unemployment rate is 56.5% for the Spirit Lake Reservation for individuals available for the Workforce who are 16 years and older and who are not employed. Note the unemployment for the Reservation is significantly greater than the State at 2.8% and the Nation at 5.8%. Being in a rural area of a rural state, resources are limited from Tribal and non-Tribal sources to address any issues including environmental problems. The Tribe finds it difficult to assess Fees and will not use Trust Land as collateral in order secure funds.

#### **IV.C.3.2 Project Description and Feasibility of Success (30 pts.)**

##### **IV.C.3.2.a Project Description (18 pts.)**

##### **IV.C.3.2.a.i Existing Conditions (3 pts.)**

The re-locatable homes are of wood frame construction with aluminum siding and drywall interiors. A Phase I and Phase II ASTM Environmental Site Assessment (ESA) were conducted by EPA Region 8's in-house Superfund Technical Assistance and Response Team (START) contractor in November 2014.

The Phase II ESA has confirmed the presence of Contaminants of Concern (COCs) at the Sheyenne Re-locatable Homes. The following is a list of the COCs and associated media identified by START at the Site:

- ACM has been identified throughout the Sheyenne Re-locatable Homes.
- LBP has been identified in a small isolated quantity in one of the Sheyenne Re-locatable Homes (Unit #15).
- Mold has been identified in various buildings of the Sheyenne Re-locatable Homes.

**Asbestos-Containing Material (ACM):** Based on the laboratory results reported for the 93 positive ACM samples, asbestos is present in all 12 of the Sheyenne Re-locatable Homes. ACM is considered to be a contaminant of concern (COC) in the buildings. Listed below are the estimated total amounts in sq. ft. and ln. ft. of confirmed ACM present in the 12 buildings on site:

- |   |   |                       |
|---|---|-----------------------|
| • 12x12 Floor Tiles and Black Mastic (4-13% Chrysotile) | = | 10,870 sq. ft.        |
| • Joint Compound (Ceilings) (2-4% Chrysotile)           | = | 11,842 sq. ft.        |
| • Joint Compound (Walls) (2-4% Chrysotile)              | = | <u>29,832 sq. ft.</u> |

<b>12 Building Totals</b>	<b>=</b>	<b>52,544 sq. ft.</b>
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\* = Estimated extent

Based on the results of the ACM survey, asbestos is present in the Sheyenne Re-locatable Homes. ACM is considered to be a contaminant of concern (COC) in relation to the Site.

**Lead-Based Paint (LBP):** Based on the results of the XRF screening, LBP is not located in most of the Sheyenne Re-locatable Homes. LBP has been identified in a small (2 sq. ft.) area at Unit #15 only. LBP is considered to be a COC of minor concern.

**Mold:** Based on the results of the mold inspection, evidence of mold was observed in various buildings at the Sheyenne Re-locatable Homes. Mold is considered to be a COC.

#### **IIV.C.3.2.a.ii Proposed Cleanup Plan (10 pts.)**

The State of North Dakota does not have an official Voluntary Cleanup Program. The Tribal Environmental Protection Administration-Brownfields Program will be responsible for consulting with EPA Region 8 on activities in relation to the cleanups. The "*Spirit Lake Law and Order Code Title 16: Environment, Health and Sanitation*" has requirements for "*Lead Abatement*" in Section 16-4-115 and requirements for "*Response Actions for Releases of Hazardous Substances, pollutants or Contaminants*" in Section 16-4-116. These requirements are similar to EPA requirements and based upon the CERCLA 128(a) requirements. In conformance with the tribal codes and the EPA Cleanup Grant requirements the Cleanup Plan will include remediation strategies, cleanup phases, closure concepts, milestones, community outreach component, protection for the environment and public health, and detailed costs. The Plan will describe how the cleanup process will need to protect the workers and nearby residents. It will also address correct disposal procedures, so that the environment is protected.

To address contamination at the site, three different alternatives were considered. The alternatives were outlined in the Analysis of Brownfields Cleanup Alternative (ABCAs) and discussed at an advertised Public Meeting held December 14, 2016 to discuss submitting a Brownfields Cleanup Grant for the Sheyenne Re-locatable Houses. The Alternatives included:

- **Alternative #1:** *No action* is not effective in removing or containing contamination at the site.
- **Alternative #2:** *Remediation and/or removal of asbestos, lead, mold and any other contamination prior to the re-purposing of the units* is effective in removing the worst of the contamination but may pose a future problem if not contained. In addition, substantial rehabilitation work and long term maintenance would be required to make the units in compliance with healthy homes and structural integrity requirements.
- **Alternative #3:** *Complete demolition and disposal of the contamination and construction wastes* is an effective in removing all contamination.

Initially, internal Tribal discussions indicated the Tribe wanted to remediate the structures. But, at the Public Meeting, several Tribal Programs were present including Tribal Housing and Tribal Planning along with a Tribal Council representative and it was decided to cleanup and remove the structures as it would not be cost effective to remediate them on a long term basis. There would also be future concerns about maintaining residual and/or contained contamination and its effects on the residents as well as structural integrity of the homes.

The recommended cleanup alternative is Alternative #3: Complete demolition, recycle and disposal of the contamination and construction wastes. The alternative will include remediation cleanup prior to demolition, milestones, community outreach component, protection for the environment and public health, and detailed costs. The Cleanup Plan will describe how the cleanup process will need to protect the workers and nearby residents. It will also address correct disposal procedures, so that the environment is protected. The contractor will work with the Tribal Environmental Administration and the EPA Region 8 to assure the safe and required practices will be followed. We estimate the total costs of the cleanup to be approximately \$200,000 to cleanup 9 abandoned homes.

#### **IV.C.3.2.a.iii Alignment with Revitalization Plan (5 pts.)**

The Tribe plans to redevelop the site for future housing with energy efficient homes after it has been cleaned up. This plan follows with the *Spirit Lake Nation Strategic Plan* which is to address the housing problem on the Reservation as stated in the Comprehensive Housing Plan section of the of the document. The Tribe will take advantage of the current sewer and water infrastructure left in place. Per directive of Tribal Council, Tribal Roads will establish/develop foundations for the 20 new homes to be built at \$15,000 per home and make any necessary updates to the landscaping and roads. The Tribe will also be committing the funding to develop engineering and architectural planning for each new home site at \$3,500 per home. This is a commitment of \$370,000. Also the Spirit Lake Water Resource/Utilities Department will work with Indian Health Services to make all needed updates to the current water and septic system infrastructure that is already in place at the site. The Tribe will also utilize Tribal Planning to seek funding



opportunities. Spirit Lake Tribe was recently granted a Promise Zone status which they will also take advantage while seeking for funding and grant opportunities.

#### **IV.C.3.2.b Task Description and Budget Table (7 pts.)**

##### **IV.C.3.2.b.i Task Descriptions**

**Task 1 - Cleanup Planning** – The contractor will work in coordination with the Tribal Environmental Administration staff and EPA Region 8 to develop a cleanup plan that will include remediation strategies, cleanup phases, closure concepts, milestones, community outreach component, protection for the environment and public health, detailed costs, and reuse options. Technical assistance and coordination will also be sought from Tribal Housing, Planning, and Administration; TERO, BIA, and IHS. *Estimated Contractual Cost: \$2,500.*

**Task 2 - Site Cleanup, Recycling, Disposal, and Confirmation Sampling**– Costs for activities related to cleanup taking into account complete demolition and disposal of the asbestos and lead-based paint problems will offer productive land reuse options for the Tribe. The contractor will also work in coordination with the Tribal Environmental Administration staff and EPA Region 8 to accomplish the cleanup. Technical assistance and coordination will also be sought from Tribal Housing, Tribal Planning, Tribal Administration, TERO, BIA, and IHS. Contractor's tasks include: 1) Demo walls to access asbestos floor tile under walls: \$15,000; 2) Removal of asbestos floor tile and mastic: \$95,000; 3) Disposal of asbestos floor tile, mastic, and asbestos impacted flooring: \$40,000, 4) Removal, segregation, and disposal of hazardous materials (mercury switches, lead-based paint structural components etc.): \$20,000; Demolition of home and segregation of concrete, roofing, wood products, steel: \$20,000; Loading, hauling and disposal of contaminated comingled building debris: \$7,500 *Estimated Contractual Cost: \$197,500.*

**Task 3 - Community Involvement** – The Tribal Environmental Administration staff will involve the community through the planning and cleanup stages. This will include interactions at 2-3 outreach educational meetings to explain lead and asbestos concerns and proper maintenance.

**Contractual** - The contractor, in coordination with the Tribal Environmental Administration staff and EPA Region 8 will be responsible for developing a cleanup plan, conducting the cleanup, proper disposal, soil sampling, and submitting a final report. *Estimated Total Contractual Cost: \$200,000.*

**Cost Share** – The Director of the Spirit Lake Refuse Control Program has provided the following cost share match. The match could be used to load, haul and dispose of contaminated comingled additional building debris. The Director also states in a support letter the Tribe is requesting a Hardship Waiver as \$40,000 will be a burden on the Tribe because it takes time away from normal everyday usage of the Refuse Control Equipment (excluding flooding emergencies which we often have).

- Equipment usage for a 2-month period, including one Dump Truck (\$3,000.00), five Roll Offs (\$16,000.00), one Backhoe (\$4,000.00), and one Skid Steer (\$2,000.)
- Operation & Maintenance and Labor donated from the Spirit Lake Refuse Control Program (\$5,000.), and
- Tipping fee reduction at Tribal transfer station for construction debris (\$5,000).
- Clean fill from a source approved by the Tribal Historic Preservation Officer (\$5,000).

Estimated Cost Share: \$40,000.

It will be difficult for the Tribe to provide the Cost-Share and it is requesting a Hardship Waiver for the 20% Cost-Share. (See Attachment I for Hardship Waiver Request.)

#### IV.C.3.2.b.ii Budget Table

<b>Budget Categories</b>					
	Task 1- Cleanup Planning	Task 2- Cleanup, Recycling, Disposal & Confirmation Sampling	Task 3- Public Involvement	Task 4- Reporting	Total
Personnel					0
Fringe Benefits					0
Travel <sup>1</sup>					0
Equipment <sup>2</sup>					0
Supplies					0
Contractual	\$2,500	\$197,500			\$200,000
Other (specify)					0
<b>Total Federal Funding (Not to exceed \$200,000)</b>					\$200,000
Cost Share <sup>3</sup>		\$40,000			\$40,000
<b>Total Budget</b>	\$2,500	\$237,500			\$240,000

<sup>1</sup>Travel to brownfields-related training conferences is an acceptable use of these grant funds.

<sup>2</sup>EPA defines equipment as items that cost \$5,000 or more with a useful life of more than one year. Items costing less than \$5,000 are considered supplies. Generally, equipment is not required for RLF grants.

<sup>3</sup>Applicant must include the cost share in the budget even if applying for a cost share waiver. If the applicant is successful and the cost share waiver is approved, it will be removed in pre-award negotiation.

Reminder: Administrative costs, such as indirect costs, of grant administration with the exception of financial and performance reporting costs are ineligible grant activities.

#### **IV.C.3.2.c Ability to Leverage (5 pts.)**

Time contributed by the Brownfields Coordinator and Environment Director in overseeing all aspects of the cleanup will be applied towards leveraged funding. Also, costs for traveling to meetings and the site; and costs for developing, printing and distributing reports and outreach information will be leveraged from the Brownfields Tribal Response Program.

Brownfields Coordinator	200/hrs. x 16.00/hr. =\$3200
Environmental Director	150/hrs. x 24.00/hr. = \$3600
Travel	\$2,000
Developing, printing and distributing reports and outreach information	\$1,200
<b>Total</b>	<b>\$10,000</b>

#### **IV.C.3.3 Community Engagement and Partnerships (20 pts.)**

##### **IV.C.3.3.a Engaging the Community (8 pts.)**

A Community Involvement Plan will be developed by the Brownfields Coordinator for Involving Targeted Community and Stakeholders. It will include a summary and status of the site, stakeholders and their roles, various ways to distribute information and gather input from the Community and pertinent Tribal entities, ways to provide responses to comments received (including providing responses in writing), how to document the cleanup results and maintenance of the Administrative Record.

The Tribe holds open forum meetings at the monthly General Assembly Meetings, which is an established procedure for informing our residents of issues and getting their feedback. The cleanup activities will be discussed, questions answered and citizen input sought. We typically post Public Notices at various community bulletin boards about issues affecting the Reservation. Our Tribal radio station invites speakers to discuss current issues and take questions from callers. Respect for our Elders is an integral part of our culture. Their opinions and ideas are solicited on projects at the Elder Meetings, which are held one-two times a month at the Tribal Administration Building. We will use the above processes and may schedule special meetings to explain options and gather public input. With this cleanup grant, we will start moving towards a new vision. Information on the cleanup will also be included when the Environmental Protection Administration publishes its Newsletter.

We work through the Tribal Employment Rights Office (TERO) when hiring contractors and personnel for projects. The Tribal Housing Office will be involved as we make decisions related to resident housing. The Tribal Planning Office will guide us as we reuse and redevelop any properties. All of the activities will be coordinated with the Tribal Council as we seek their approval to proceed with projects. We continually work with BIA, IHS, U.S. EPA and various other federal agencies requesting technical assistance and funding resources with projects related to their agency functions.

##### **IV.C.3.3.b Partnerships with Government Agencies (5 pts.)**

**Tribal Resolution** – Tribal Resolution supporting submission of Brownfields Cleanup grant for Sheyenne Re-locatable houses. *(See Attachment section for Tribal Resolution)*

**Contact:** Myra Pearson, Chairperson (701)766-4126

**Tribal Planning** – Tribal Planning Director researches and explores all funding sources for the Tribe. Collaborates and coordinates with local, state, and federal agencies. Provides an avenue assistance to improve the economic conditions for the Tribal communities. Will be able to provide valuable input for reuse options for the Tribal Administration to consider.

**Contact:** Ila McKay, Director (701)766-1706

**Tribal Realty** – Official record keeper of all Tribal Lands inventory. Maintains all land transactions and changes to land records. Will record any Institutional Controls. Can discuss reuse options with Tribal Administration. **Contact:** JoAnn Smith, Director (701)766-1746

**Spirit Lake Refuse Control Program** – Support letter provides \$40,000 cost-share in the form of equipment and operations & maintenance usage, and through a reduction of tipping fee at the Transfer Station. **Contact:** Duane Jackson, Director (701) 766-1267

#### **IV.C.3.3.c Partnerships with Community Organizations (5 pts.)**

**Tribal Council/District Representatives**- Elected members of their respected Districts chosen to support and represent their communities. **Contact:** Alberta Redfox, Woodlake Representative; Aaron Green, Fort Totten Representative; Kenny Baker, St. Michaels Representative; Doug Yankton, Crowhill Representative at (701)766-4221

**Elders Board of Directors** – Traditionally and historically have respect for Mother Earth and support removing contamination to have a better balance with nature. Will share knowledge, years of experience and wisdom. **Contact** – Phillip G. Longie, Chairman of Board of Directors.

**St. Michael's Catholic Church** – Support letter describes desire to eliminate contamination. Church has a vested interest in welfare of Community members especially children and sick persons. **Contact** - Fr. Paul Schuster, Pastor (701) 766-4151

#### **IV.C.3.3.d Partnerships with Workforce Development Programs (2 pts.)**

The Tribe received a Brownfields Job Training grant in the early part of 2000. We also utilized the students in previous cleanup projects conducted on the Spirit Lake Tribe, and we intend to recruit those students if awarded the project. Other partnerships using TERO approved Tribal Contractors working with Spirit Lake Tribe U.S. EPA Certified Contractors, have proven very successful on several projects performed under the Tribe's Brownfields Program. These proven successful partnerships will also be considered if the project is awarded.

#### **IV.C.3.4 Project Benefits (15 pts.)**

##### **IV.C.3.4.a Welfare, Environmental, and Public Health Benefits (8 pts.)**

By eliminating the direct contact and inhalation of asbestos, people will not be affected by the known carcinogen, which can cause lung cancer and mesothelioma, a form of neoplasm of the lining of the chest and abdominal cavities. Cancer of the larynx has also been associated with exposure to asbestos. We hope to eliminate the known hazards in the houses that are related to breathing or eating lead-based paint dust. In adults this may include difficulties in pregnancy,

other reproductive problems, high blood pressure, nerve disorders, memory and concentration problems, muscle and joint pain and digestive problems. In children and infants lead levels are more dangerous and include damage to the brain and nervous system, behavioral and learning problems, slowed growth, hearing problems, and headaches. Finally, the demolition of abandoned homes eliminates the problem of using those homes to conduct illegal activities as related to methamphetamine labs and drug activities as well as make these existing home sites available for reuse and redevelopment.

#### **IV.C.3.4.b Economic and Community Benefits (7 pts.)**

By removing the contaminated houses, the sites would be available for constructing new houses. This is very important considering there are over 300 families on a wait list for housing. The new sites would not require any reuse restrictions (Institutional Control). Since infrastructure is already in-place, costs would be saved by not needing to install new water and sewer lines, electricity, etc. Jobs will be increased during the cleanup and constructing new homes on the cleaned up sites. Because the homes are in Fort Totten, the Tribal Administrative Community, residents can save time and resources in seeking assistance from Tribal services.

#### **IV.C.3.5 Programmatic Capability and Past Performance (20 pts.)**

##### **IV.C.3.5.a Audit Findings (2 pts.)**

EPA Region 8 conducted a Management Assistance Program (MAP) review in 2012 and 2013 which was focused on the Tribes financial, personnel, procurement and property management system as they pertained to the EPA grants. This review resulted adverse audit findings which required to comply with special “high risk” terms or conditions. The Tribe worked closely with EPA and its auditor to bring its operations and practices into compliance. Currently, the Tribe is in full compliance and has been removed from the “high risk” status.

##### **IV.C.3.5.b Programmatic Capability (10 pts.)**

For the past several years the Spirit Lake Environmental Protection Administration has annually managed over \$1 million in grants including EPA grants, BIA water management study project, Administration for Native Americans (compliance, codes, and legal issues), and HUD (Healthy Homes). Recently, the Tribal Solid Waste Department was put under the management of the Environmental Protection Administration. Twenty-five percent of the profits from the Tribal Casino is annually awarded to various Tribal programs.

In 1999, the Spirit Lake Tribe formed the Spirit Lake Tribe Environmental Protection Administration Office. The purpose of the office was to protect human health and the environment for all Reservation residents. When created, the Division consisted of three programs: GAP (established a Tribal Environmental Program and completed projects such as cleanups of open dump and tire piles), Water Quality (installed and monitors wells and GIS mapping of locations, and developed Water Quality Standards), and Air Quality (installed ambient monitors air monitoring devices for a manufacturing plant located in the heart of Fort Totten and also indoor air quality testing for Tribal homes and schools). In 2003 the Tribal Brownfields Response Program was created. Over the years we have also had the following programs and/or grants: 319 NPS (both base and a 2 year competitive grant – completed development of NPS Plan), a Pesticides grant (completed Leafy Spurge/sheep control project), CORE, Job Training and Brownfields Assessment (described in detail in last Section –

Accomplishments), Several Lead grants (identified and tested which housing and public day care centers with children presented lead-based paint problems and then coordinated with IHS Filed Nurses to complete blood screen tests for selected children), LUST/UST program (identified and entered into database LUST/UST sites) & Wetlands Special 3 year Project grant.

Today, SLT EPA has four programs (General Assistance Program, CWA 106, CAA 103, and Brownfields Tribal Response Program) which are responsible for a variety of different tasks and projects within the Reservation boundaries. Monitoring, compliance assistance, enforcement, and outreach consist of the main daily duties of the five SLT EPA employees assigned in their annual work plans. Employees receive regular training from EPA and other sources to carry out the duties of their jobs.

#### **IV.C.3.5.c Measuring Environmental Results: Anticipated Outputs/Outcomes (2 pts.)** **Outputs and Outcomes**

<b>Task</b>	<b>Output</b>	<b>Outcome</b>
<b>Cleanup Planning</b>	<ul style="list-style-type: none"> <li>-Develop Cleanup Plan.</li> <li>-Develop Remediation Plan Details &amp; Cleanup options.</li> <li>-Develop Confirmation Sampling QAPP.</li> </ul>	<ul style="list-style-type: none"> <li>-Increased ability for Tribe to oversee proper cleanup in compliance with regulations.</li> <li>-Increased ability for Tribe to conduct efficient &amp; effective cleanup- saves money, protects health &amp; environment.</li> </ul>
<b>Site Cleanup, Recycling, Disposal &amp; Confirmation Sampling</b>	<ul style="list-style-type: none"> <li>-Number of sites cleaned up.</li> <li>-Number of contaminants removed/remediated.</li> <li>-Conduct confirmation sampling.</li> <li>-Implement Institutional Controls.</li> <li>-Recycle debris.</li> <li>-Require contractor to hire qualified Tribal laborers.</li> </ul>	<ul style="list-style-type: none"> <li>-Increased numbers of home sites with sewer/water systems in place for new construction.</li> <li>-Elimination of contaminants affecting health and the environment.</li> <li>-Increased planned number of healthy and energy efficient homes brought into Tribal land.</li> <li>-Increase in ability to document cleanup was completed.</li> <li>-Increased ability to implement reuse restrictions.</li> <li>-Elimination of illegal meth activities as result of elimination of abandoned homes.</li> <li>-Increased jobs/wages for Tribal workers.</li> </ul>
<b>Public Involvement</b>	<ul style="list-style-type: none"> <li>-Develop Public Outreach Plan.</li> <li>-Hold public meetings.</li> <li>Enlist partners/stakeholder.</li> </ul>	<ul style="list-style-type: none"> <li>-Increased ability to deliver effective outreach information.</li> <li>-Increased number of people aware of environmental issues.</li> <li>Increased ability to achieve results with expanded support.</li> </ul>
<b>Reporting</b>	<ul style="list-style-type: none"> <li>-Develop and submit reports.</li> <li>Submit summary cleanup report to Spirit Lake Tribal Housing</li> </ul>	<ul style="list-style-type: none"> <li>-Increased ability for Tribe to report on accomplishments and track progress.</li> <li>-Increased ability for EPA to track progress.</li> </ul>

	Authority, Tribal Home Improvement Program.	-Improved documentation on history of site and improved ability to appropriately redevelop/reuse site.
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#### **IV.C.3.5.d Past Performance and Accomplishments (6 pts.)**

##### **IV.C.3.5.d.i Currently or Has Ever Received an EPA Brownfields Grant (6 pts.)**

###### **Past Performance**

Under the Tribal Response Program, we have established a Public Record, through which we announce assessments and cleanups funded by the Brownfields Program. Typically, they are announced to Tribal Council and Department Head meetings, through flyers posted in public places, and sometimes in other media such as the radio and newspapers. We are working on the required Four Elements, including surveying the Reservation and have entered 30 sites into BIT and recorded 26 in ACRES for sites that have received assessments and cleanup. We have conducted public outreach by distributing environmental information at PowWows, to schools, Job Fairs, on the website and through newsletters. We have conducted at least 40 assessments and cleanup projects some with 128(a) funding and others. We received prior approval from EPA Region 8 before completing site work through Site Eligibilities or TBAs. Contractors Cleanup Plan are approved and they are also are required to conduct confirmation sampling after cleanups and letters are written to Tribal Administration and pertinent Programs summarizing the cleanup and if any Institutional Controls are recommended. The Tribal Environmental Program provides oversight on contractors work and recently developed Solid Waste Codes. Several years ago, the Tribal Environmental Program worked with Tribal Council, which passed by Resolution a 1% Solid Waste Disposal Fee on contractors. The Tribal Environmental and Solid Waste Program receive funding for projects from this Fee.

###### **Past Brownfields Grants Awarded (Other than 128(a) Tribal Response Program Grants:**

- 1999 – Job Training Grant – Trained a core of 15 students (and in some courses many more) in OSHA 40-hour, lead, asbestos, and mold abatement courses and related training such as First Aid/CPR and OSHA health and safety.
- 1999 - Assessment Grant for \$200,000 – Completed 11-Phase I Assessments and 9-Phase II assessments and coordinated with EPA R8 Emergency Response Program to conduct a \$1.5 million asbestos removal at 3 sites.
- 2005 – Brownfields Cleanup grant for rolling Hills Re-locatable Houses – asbestos and lead remediated in 26 homes resulting in safe living units for families.
- 2005– Brownfields Cleanup grant for Old Fort Totten Hospital – asbestos and lead remediated and ready for reuse. Tribe trying to identify refurbishing funds.
- 2005– Brownfields Cleanup grant for St. Michaels Community Center –lead removed (and EPA ER removed Asbestos) and now being used as a Community Center.
- 2005– Brownfields Cleanup grant for Ft. Totten Community Youth center – asbestos and lead remediated and structure demolished and properly removed. Being used as parking lot for adjoining church.

###### **Accomplishments**

- Under the Brownfields Assessment grant, we completed Phase I activities for eleven properties and Phase II activities for nine properties and in the process, coordinated with agencies and organizations, and leveraged approximately \$1.5 million dollars for additional assessments and cleanups at two sites.
- Under four past EPA Cleanup Grant we issued an RFP and hired a certified contractor to remediate contamination at the Old Fort Totten Hospital, St. Michaels School, and cleanup and remove the structures for the Fort Totten Community Center and Rolling Hills Re-locatable Houses.
- Under the Job Training grant, we trained a core of 15 students (and in some courses many more) in OSHA 40-hour, lead, asbestos, and mold abatement courses and related training such as First Aid/CPR and OSHA health and safety.
- Created a Public Record Book where summary information on assessments and cleanups are documented for public viewing.
- Entered 30 sites into BIT database.
- Listed 26 sites in ACRES database.
- Completed 6 Targeted Brownfields Assessments and 2 cleanups with Brownfields funding.
- Provided information on the Tribal website on the Brownfields Program and site projects.
- Developed Lead Program, Lead QAPP for Risk Assessment and Blood Testing in children; and worked with the EPA Lead Program to conduct Lead Risk Assessments for some houses and Blood Screening for children at risk.
- Surveyed and inspected numerous open dumps and forwarded information to IHS for inclusion in its database.
- Attended numerous training courses to enhance their skills and create a Tribal Brownfields Response Program.
- Developed annual Workplans, submitting Quarterly Progress Reports and participating in scheduled calls with EPA Project Officers.
- All funds are expended and grants closed-out on past EPA Brownfields grants. On current EPA Brownfields grants, we are up-to-date on Task accomplishments, Progress Reports and funds expended.



**Attachment D –  
Documentation of Leveraged Funds**

Time contributed by the Brownfields Coordinator and Environment Director in overseeing all aspects of the cleanup will be applied towards leveraged funding. Also, costs for traveling to meetings and the site; and costs for developing, printing and distributing reports and outreach information will be leveraged from the Brownfields Tribal Response Program.

Brownfields Coordinator	200/hrs. x 16.00/hr. =\$3200
Environmental Director	150/hrs. x 24.00/hr. = \$3600
Travel	\$2,000
Developing, printing and distributing reports and outreach information	\$1,200
<b>Total</b>	<b>\$10,000</b>

## **Attachment E – Documentation of Community Notification**

### **Record Meeting Notes, Discussion Topics, Questions and Answers**

**Sheyenne Re-locatable homes site, December 14, 2016**

**10:30 AM at Spirit Lake Environmental Protection Administration Conference Room**

#### **Meeting opened at 10:30 AM**

-Environmental Director, Josh Tweeton and Brownfields Coordinator, Art Carmona begin introducing purpose of the meeting.

- Josh Tweeton- Introduced the Phase II ESA and began summarizing the highlights of the assessment and covered the background of the site. We also explained the importance of keeping people off the site and out of the homes.

-Josh Tweeton-Began explaining background information and summarizing the Brownfields Cleanup Grant for example how much funding can be awarded, when can cleanup start, and where does the funding come from.

-Art Carmona and Josh Tweeton- Handed out Analysis of Brownfields Cleanup Alternatives and began explaining each of the alternatives listed in the document as well as the costs. We shared which alternative we considered recommending (cleanup of all hazardous materials and total demolition and disposal of the homes). There was later some discussion by Tribal Realty Administrative Assistant, Paulette Driver and Tribal Planning Administrative Assistant to change our recommendation to cleanup of all hazardous materials and remediation of the homes but after further discussion with Tribal Council Representative, Nancy Greene-Robertson, Tribal Realty Director, JoAnn Smith and the Tribal Housing Director, Elaine Robinson a different alternative (cleanup of all hazardous materials and total demolition and disposal of the homes) is now being considered as the best option for this cleanup. This was concluded because of the amount of funding the Tribe would need to fix up the homes after the abatement would be similar to building a new home once everything is replaced such as the sheetrock, wiring, and roofing, etc. Also this way the homes can be built up to standard for this region with 2x6 walls instead of 2x2 which aren't meant for this type of climate.

-Tribal Council Representatives and Tribal Housing Director discussed on possible options to relocate the families currently living in some of the Rolling Hills housing units that have not yet been abandoned. It came to conclusion that putting new housing at the site would be the best option because the people living out there do not want to be in the housing areas and the infrastructure is already in place.

- Discussion on what programs or funding outside of Tribal funds is available to build homes. Ideas mentioned were USDA title 6, NAHSDA, and the Tribal College Carpentry program which is currently constructing a house.

-Question from Tribal Realty Administrative Assistant, Paulette Driver – Can the funding awarded be used to remediate the house after the abatement of asbestos?

Answer- No. The funding can only be used to remove, transport and dispose all hazardous and non-hazardous materials according to required procedures set by law and standards. Soil samples will be taken and a cleanup and quality assurance plan will be developed to ensure that these actions are done as required.

-Josh Tweeton- Informed everyone that a draft of the proposal can be requested from my office. -

-If anyone has any other questions they can be asked at this time.

-No further questions. **Meeting closed at 11:30 AM.**



# Affidavit of Publication

COUNTY OF BENSON )  
 )SS  
STATE OF NORTH DAKOTA )

Denise Westad of said County and State, being first duly sworn on her oath, says: That the Benson County Farmers Press is a legal weekly newspaper of general circulation, printed and published in the City of Minnewaukan, in said County and State, by Denise Westad, and has been such newspaper during the time hereinafter mentioned; and that I, Denise Westad, the undersigned, am publisher and during all such times have been publisher of said newspaper, and that the advertisement headed

## NOTICE

The Spirit Lake Tribal Environmental Protection Administration-Brownfields Program will hold a public meeting...

a copy of which is hereunto attached, was printed and published in the said Benson County Farmers Press for 1 consecutive weeks to wit:

December 8, 2016

that the full amount of the legal fee for publication of the annexed notice inures solely to the benefit of the publisher of the Benson County Farmers Press, that no agreement for understanding for a division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever.

First insertion line rate  
of .65 per line times 39 lines of straight matter \$ 25.35

Subsequent line rate  
of .65 per line times lines of straight matter  
times insertions \$                     

First insertion inch rate  
of \$6.38 times column times depth of  
inches times subsequent insertions \$                     

TOTAL PUBLISHER'S FEE \$ 25.35

Denise Westad  
Denise Westad

Subscribed and sworn to before me this 19 day of Dec., 2016.

Sharon Schneider  
Sharon Schneider, Notary Public ND  
My Commission Expires Feb. 25, 2021

SHARON SCHNEIDER  
Notary Public  
State of North Dakota  
My Commission Expires Feb. 25, 2021

## NOTICE

The Spirit Lake Tribal Environmental Protection Administration-Brownfields Program will hold a public meeting to discuss and accept comments on submissions of a Brownfields Cleanup Grant to the US Environmental Protection Agency (EPA) to clean up the contamination, demolish to reach contamination, recycle and properly dispose of the contamination and construction debris for the Sheyenne Relocatable homes, Sheyenne, Benson County, ND. The meeting will be held on Dec. 14, 2016 at the Spirit Lake Tribal Environmental Protection Administration Office located in the Tribal Administration Building at 816 3rd Ave. North, Fort Totten, ND 58335, starting at 10:30 a.m. A draft copy of the grant proposal will be available for review and comment at the meeting and also will be available at the Spirit Lake Tribal Brownfields Program Office. An analysis of the Brownfields Cleanup Alternatives (ABCAs) are in the proposal, and will also be discussed at the meeting. Joshua Tweeton, director of the Tribal EPA Administration, and Art Carmona, Brownfield coordinator, will be representing the Brownfields Program. They may be contacted at 701-766-1259.

(Publish Dec. 8, 2016)

**Attachment F – Analysis of Brownfields Cleanup Alternatives (ABCAs)  
for  
Sheyenne Re-locatable Homes  
Spirit Lake Tribe Environmental Protection Administration, Brownfields Program  
Fort Totten, North Dakota**

Tribal Contacts: Art Carmona, Brownfields Coordinator  
and Joshua Tweeton, Environmental Director (701) 766-1709

**I. Introduction & Background**

**a. Site Location**

The Sheyenne Re-locatable Homes are located at 7591 35<sup>th</sup> Street, Sheyenne, Benson County, North Dakota 58374 on Tribal Trust Land on the Fort Totten Indian Reservation. The 12 homes are situated next to each other on approximately 2 acres.

**b. Previous Site Use(s) and any previous cleanup/remediation**

The exact dates of construction are unknown, but the Sheyenne Re-locatable Buildings are thought to have been built sometime in the 1970's. The buildings were first acquired by the Spirit Lake Tribe in the 1990's to supplement the Tribe's housing needs. Based on the age of the structures and their current condition, the presence of asbestos (ACM), lead-based paint (LBP) and mold are possible. The buildings are of wood frame construction with aluminum siding and drywall interiors. The Tribe is considering re-use of the homes if possible, and if not, the demolition of the buildings in order to re-use the site.

**c. Site Assessment Findings**

A Phase I and Phase II ASTM Environmental Site Assessment (ESA) were conducted by EPA Region 8's in-house Superfund Technical Assistance and Response Team (START) contractor in November 2014.

The Phase II ESA has confirmed the presence of Contaminants of Concern (COCs) at the Sheyenne Re-locatable Homes. The following is a list of the COCs and associated media identified by START at the Site:

- ACM has been identified throughout the Sheyenne Re-locatable Homes.
- LBP has been identified in a small isolated quantity in one of the Sheyenne Re-locatable Homes (Unit #15).
- Mold has been identified in various buildings of the Sheyenne Re-locatable Homes.

**Asbestos-Containing Material (ACM):** Based on the laboratory results reported for the 93 positive ACM samples, asbestos is present in all 12 of the Sheyenne Re-locatable Homes. ACM is considered to be a contaminant of concern (COC) in the buildings. Listed below are the estimated total amounts in sq. ft. and ln. ft. of confirmed ACM present in the 12 buildings on site:

- |   |   |                |
|---|---|----------------|
| • 12x12 Floor Tiles and Black Mastic (4-13% Chrysotile) | = | 10,870 sq. ft. |
| • Joint Compound (Ceilings) (2-4% Chrysotile)           | = | 11,842 sq. ft. |

• Joint Compound (Walls) (2-4% Chrysotile) = 29,832 sq. ft.  
**12 Building Totals** = **52,544 sq. ft.**

\* = Estimated extent

Based on the results of the ACM survey, asbestos is present in the Sheyenne Re-locatable Homes. ACM is considered to be a contaminant of concern (COC) in relation to the Site.

**Lead-Based Paint (LBP):** Based on the results of the XRF screening, LBP is not located in most of the Sheyenne Re-locatable Homes. LBP has been identified in a small (2 sq. ft.) area at Unit #15 only. LBP is considered to be a COC of minor concern.

**PCBs:** Based on the results of the inspection of PCB-containing equipment/fixtures, no evidence of assumed PCB-containing ballasts was observed at the Sheyenne Re-locatable Homes. PCBs are not considered to be a COC.

**Mercury:** Based on the results of the mercury containing equipment inspection, no evidence of mercury was observed at the Sheyenne Re-locatable Homes.

**Mold:** Based on the results of the mold inspection, evidence of mold was observed in various buildings at the Sheyenne Re-locatable Homes. Mold is considered to be a COC.

#### **d. Project Goal**

To obtain sound, scientifically valid data concerning actual property conditions at the Site with respect to the presence or the likely presence of target analytes/substances and to gather sufficient data to evaluate potential future remedial options to meet the Brownfields objectives of the Targeted Brownfields Assessment (TBA) Recipient, Spirit Lake Tribe, and to provide sufficient data to assist the town in making informed decisions with regard to the future use of the property.

#### **e. Climate Change Impacts**

The Spirit Lake Nation wants to be good stewards of the land. The Sheyenne Re-locatable Houses were constructed in a time period when asbestos and lead paint were typical building products and not recognized as being health or environmental hazards. Mold is difficult to control once started. If the asbestos, lead and mold are not maintained or removed, the homes pose a risk to be damaged by climatic events and released. Events typical to the Reservation include floods, severe storms, and wildfires. As the contamination is remediated, it will no longer be released into the environmental nor negatively impacting public health.

### **II. Applicable Regulations and Cleanup Standards**

#### **a. Cleanup Oversight Responsibility**

The Spirit Lake Tribe Environmental Protection Administration through the Brownfields Tribal Response Program has the oversight responsibility of the cleanup. The cleanup will be performed in coordination with U.S. EPA Region 8. A certified contractor will be hired to conduct the cleanup.

#### **b. Cleanup Standards for major contaminants**

Because the site will be used for residential uses, EPA Regional Residential Screening Levels be used as the cleanup standards. These are the most stringent screening levels designed to protect residents living in the homes.

**c. Laws & Regulations Applicable to the Cleanup (*briefly summarize any federal, tribal, state, and local laws and regulations that apply to the cleanup*)**

The Spirit Lake Tribe Environmental Protection Administration proposes to follow all Laws & Regulations applicable to the cleanup such as:

- Small Business Liability Relief and Brownfields Revitalization Act
- Federal and Tribal laws regarding procurement of services
- EPA, DOT, and OSHA Regulations; Davis-Bacon Act
- Tribal laws and regulations including TERO ordinances pertaining to Tribal Business Licenses, Work Permits, TERO Fees and hiring practices

**III. Evaluation of Cleanup Alternatives**

**a. Cleanup Alternatives Considered (*minimum two different alternatives plus No Action*)**

To address contamination at the Site, three different alternatives were considered, including:

- **Alternative #1:** *No action.*
- **Alternative #2:** *Remediation and/or removal of asbestos, lead, mold and any other contamination prior to the re-purposing of the units.*
- **Alternative #3:** *Complete demolition and disposal of the contamination and construction wastes.*

ABCA option	Advantages	Disadvantages
1. <i>No action.</i>	<ul style="list-style-type: none"><li>• No costs.</li></ul>	<ul style="list-style-type: none"><li>• All contamination remains.</li><li>• Health, environmental, and safety hazards remain and may worsen as the building deteriorates and becomes salvaged and vandalized.</li><li>• The needs of the community will not be met since the site cannot be reused with the status quo situation.</li><li>• No immediate costs, but potential costs associated with securing the site and potential high costs in future due to unlimited</li></ul>

		liability and deteriorating conditions.
<p><b>2. Remediation and/or removal of asbestos and other contamination prior to the re-purposing of the units.</b> This would include the scraping of the acoustical fireproofing (popcorn ceiling), removing and/or the encapsulation of: 1) the exposed ACM tile and mastic on the flooring; 2) drywall system (drywall, joint compound, tape etc.) that makes up the ceilings and wall; and 3) ACM tile/flooring and associated mastic on the flooring.</p>	<ul style="list-style-type: none"> <li>• Medium Costs.</li> <li>• Removal of most contamination. Some residual may remain, but will be contained.</li> <li>• Allows for reusing homes.</li> <li>• Jobs will be created during cleanup.</li> </ul>	<ul style="list-style-type: none"> <li>• Contained contamination may be released in future if not maintained posing health and environmental problems.</li> <li>• In future years, potential additional costs associated with health and environmental issues and meeting compliance with standards.</li> </ul>
<p><b>3. Complete demolition, recycle and disposal of the contamination and construction waste.</b></p>	<ul style="list-style-type: none"> <li>• Total removal of all contamination.</li> <li>• Removes public health, environmental and safety hazards.</li> <li>• Allows for reusing site with no restrictions.</li> <li>• Recycle what is possible reducing deposition in landfill.</li> <li>• Jobs created during cleanup.</li> </ul>	<ul style="list-style-type: none"> <li>• Highest costs.</li> </ul>

**b. Cost Estimate of Cleanup Alternatives (brief discussion of the effectiveness, Implementability and a preliminary cost estimate for each alternative)**

To satisfy EPA requirements, the effectiveness, implementability, and cost of each alternative must be considered prior to selecting a recommended cleanup alternative.

Effectiveness

- **Alternative #1: No action** is not effective in removing or containing contamination at the site.



- **Alternative #2:** *Remediation and/or removal of asbestos, lead, mold and any other contamination prior to the re-purposing of the units* is effective in removing the worst of the contamination but may pose a future problem if not contained.
- **Alternative #3:** *Complete demolition and disposal of the contamination and construction wastes* is an effective in removing all contamination.

#### Implementability

- **Alternative #1:** *No action* is easy to implement since there are no actions to implement.
- **Alternative #2:** *Remediation and/or removal of asbestos, lead, mold and any other contamination prior to the re-purposing of the units* is easy to implement with trained environmental professionals.
- **Alternative #3:** *Complete demolition and disposal of the contamination and construction wastes* is moderately difficult to implement as it require trained professionals to properly handle all aspects of the remediation, demolition, recycling and disposal.

#### Cost

- **Alternative #1:** *No action* requires no immediate costs, but potential costs associated with securing the site and potential high costs in future due to unlimited liability and deteriorating conditions.
- *Removal and disposal of all ACM as asbestos waste and remediation of lead and mold prior to the re-purposing of the units.* Estimated costs mostly for asbestos removal at \$291,237 + lead and mold remediation of \$7,000 = **\$298,237.**
- **Alternative #2:** *Remediation and/or removal of asbestos, lead, mold and any other contamination prior to the re-purposing of the units.* Estimated costs mostly for asbestos removal at \$291,237 + lead and mold remediation of \$7,000 = **\$298,237.**
- **Alternative #3:** *Complete demolition, recycle and disposal of the contamination and construction wastes.* Estimated costs are **\$701,103.**

#### **b. Recommended Cleanup Alternative**

Initially, internal Tribal discussions indicated the Tribe wanted to remediate the structures. But, at the Public Meeting, several Tribal Programs were present including Tribal Housing and Tribal Planning along with a Tribal Council representative and it was decided it was not cost-effective to remediate and instead to cleanup and remove the structures depending upon the most effective way to spend limited funding that can be obtained to address the contaminated structures.

#### **Selected Alternative(s)**

The recommended cleanup alternatives are **Alternative #2** (*Remediation and/or removal of asbestos, lead, mold and any other contamination prior to the re-purposing of the units*) **and/or Alternative #3:** (*Complete demolition, recycle and disposal of the contamination and construction wastes*).

The Tribal Brownfields Program proposes to consider both Alternative #2 and Alternative #3 depending upon the amount of funding the Tribe is able to identify and obtain and internal decisions made on the most cost-effective manner to address the contaminated structures, taking into consideration the public health and environmental issues.

## Attachment I Justification for Cleanup Cost-Share Waiver

The Spirit Lake Tribe is requesting a Hardship Waiver for the 20% Brownfields Cleanup Grant match for the Sheyenne Re-locatable houses located in the Rolling Hills section of the Community of Fort Totten, Benson County, North Dakota on the Spirit Lake Reservation.

- **The unemployment rate;**

According to the 2013 American Indian Population and Labor Force Report, the unemployment rate is 56.5% for the Spirit Lake Reservation for individuals available for the Workforce who are 16 years and older and who are not employed. Note the unemployment for the Reservation is significantly greater than the State at 2.8% and the Nation at 5.8%.

- **Per capita income;**

Per Capita income for the targeted Community is \$7,216. Note Benson County is more than double at \$17,220; and the State and Nation are more than triple at \$28,700 and \$28,051 respectively.

The following table provides demographic information about that community in comparison to the Reservation, State and Nation:

	<b>Sheyenne Houses in Ft. Totten, ND</b>	<b>Spirit Lake Tribe Reservation</b>	<b>Benson County, ND</b>	<b>State of ND</b>	<b>National</b>
<b>Population</b>	1243 <sup>5</sup>	4,238 <sup>3</sup>	6,877 <sup>4</sup>	723,393 <sup>1</sup>	316,128,839 <sup>1</sup>
<b>Unemployment</b>		56.5% <sup>6</sup>		2.8% <sup>2</sup>	5.8% <sup>2</sup>
<b>Poverty Rate</b>	69.2% <sup>7</sup>		35.7% <sup>4</sup>	12.1% <sup>1</sup>	14.9% <sup>1</sup>
<b>Percent Minority</b>	98.1% <sup>5</sup>	84.6% <sup>3</sup>	56.6% <sup>4</sup>	10.4% <sup>1</sup>	22.3% <sup>1</sup>
<b>Per Capita Income</b>	\$7,216 <sup>7</sup>		\$17,220 <sup>4</sup>	28,700 <sup>1</sup>	\$28,051 <sup>1</sup>
<b>Median Household Income</b>	\$21,551 <sup>7</sup>		\$34,706 <sup>4</sup>	\$51,641 <sup>1</sup>	\$53,046 <sup>1</sup>

<sup>1</sup>Data is from U.S. Census Quick Facts 2013 at <http://quickfacts.census.gov/qfd/states/38000.html>

<sup>2</sup>Data is from Bureau Labor November 2014 and is available at <http://www.bls.gov/eag/eag.nd.htm>

<sup>3</sup>Data is from North Dakota Indian Affairs Commission 2010 at <http://www.nd.gov/indianaffairs/?id=37>

<sup>4</sup>Data is from U.S. Census Quick Facts 2013 Benson at <http://quickfacts.census.gov/qfd/states/38/38005.html>

<sup>5</sup>Data is from U.S. Census Quick Facts 2013 Fort Totten  
<http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>  
<http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>

<sup>6</sup>Data is from 2013 American Indian Population and Labor Force Report and is available at <http://www.bia.gov/cs/groups/public/documents/text/idc1-024782.pdf>

<sup>7</sup>City-data Fort Totten 2009 at <http://www.city-data.com/city/Fort-Totten-North-Dakota.html>

- **Data demonstrating substantial out-migration or population loss, if relevant;**

The Population of the Reservation was 4435 in the 2000 U.S. Census and 4238 in the 2010 Census a decrease of 197. This may seem like a low number, but not for a rural area of the U.S. and especially when the State is experiencing a rapid increase in growth due to expansion of oil and gas operations.

- **Data demonstrating underemployment, that is, employment of workers at less than full-time or at less skilled tasks than their training or abilities permit, if relevant;**

According to the 2010 – 2012 U.S. Census and City-Data, approximately, 69.2% of the families are below the poverty level in the targeted Community of Fort Totten where the Sheyenne Houses are located, which is about three time higher than the State rate at 12.1% and the Nation at 14.9%. Benson County where a large number of Tribal residents live (56.6% minority) also has a high Poverty Level at 37.7%. Low incomes are reflective in that many Tribal families struggle to get by and find it difficult to live in affordable housing. Over 300 families are on a wait list for housing resulting in extended family members live together in crowded conditions and most times in substandard housing. The Tribe has low rent housing units, HUD homes, and mutual self-help homes in four major Reservation communities. Rural farmsteads consist of privately owned homes and mutual help scatter sites. All of these statistics suggests unemployment and underemployment are typical of the Reservation.

- **Information regarding military base closures or realignments, defense contractor reductions-in-force, or U.S. Department of Energy defense-related funding reductions, if relevant;**

Grand Forks Air Force Bases is approximately 90 miles and Minot Air Force Base approximately 150 miles from Reservation. Both have experienced great reductions in recent years. Ironically, the Sheyenne Re-locatable Houses, with asbestos and lead contamination and of which this Brownfields Cleanup Grant Proposal hope to address, came from Minot Air Force Base during the reduction of services at the Base.

- **Local natural or other major disasters or emergencies, if relevant;**

In 2012, the USDA declared Benson County, ND an agriculture disaster due to drought conditions.

- **Information regarding extraordinary depletion of natural resources, if relevant;**

The area experienced excessive flooding in the 1990 reclaiming farmland and residential areas. Devil's Lake, which does not have a natural outlet and borders the Reservation on the north and west, has risen in recent decades.

- **Closure or restructuring of industrial firms and negative effects of changing trade patterns, if relevant;**

Environmental Justice issues as the Tribes and State of North Dakota State, are expected to have impacts associated with the expansion of oil and gas exploration in North Dakota. These actions can have serious impacts with environmental, economical, societal, and cultural implications. Impacts can only be identified if current conditions are known, which would lead to proper planning, strategies to avoid disasters which are beyond repair, and protection of the Spirit Lake

people environment, values, welfare, and way of life. If action is not taken now, our leadership is very concerned for our yet unborn.

The rise of Devils Lake (over 27') resulted in limiting access to Tribal services and businesses including tourism and attendance at the Tribal Casino enterprise resulting in economic losses and reduction of jobs. It is a continual process for the USCOE to conduct and repair road which serve as berms holding back the waters of Devils Lake from further flooding the Reservation. The road activities cause disruption for residents and visitor to the Reservation.

- **Whether you are located in a President-Declared Disaster area (declared within 18 months of the submission date for your proposal);**

Benson County where Ft. Totten is located, received the following FEMA Presidential Declarations: in 2014 (#4190) for Severe Storms and Flooding; in 2013 (#4154) for Severe Storms and Flooding.

- **Whether you have exhausted effective taxing (for Governmental entities only) and borrowing capacity.**

Being in a rural area of a rural state, resources are limited from Tribal and non-Tribal sources to address any issues including environmental problems. The Tribe finds it difficult to assess Fees and will not use Trust Land as collateral.

- **Whether the proposed project could still proceed if the cost share waiver was not approved.**

In addition to having difficulty in identifying funding to address the contamination, the Tribe must also find housing for the additional families that live in house with potential asbestos, lead, mold contamination. Over 300 families are on a wait list for housing. Therefore, any remediation by the Tribe will need to proceed at a slower pace.

**Spirit Lake Tribe**  
**Refuse Control Services**

4012 72<sup>nd</sup> Ave NE  
Fort Totten, ND 58335  
(701)766-1267

12/12/16

Mr. Art Carmona  
Brownfields Coordinator  
Spirit Lake Tribe  
P.O. Box 99, 816 Third Avenue North  
Fort Totten, ND 58335

Re: Cost- share match for the cleanup of the Sheyenne Re-locatable homes

Dear Mr. Carmona,

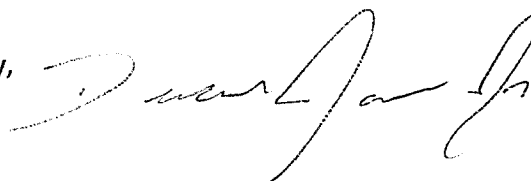
This letter is written in support of your application to obtain EPA Brownfields Cleanup grants for the proposed cleanup of the Sheyenne Re-locatable homes on the Spirit Lake Reservation. In my capacity as Director of the Spirit Lake Refuse Control Program, we are committing the following resources to meet the cost share requirement of the U.S. EPA Brownfields Grant Application:

- Equipment usage for a 2-month period, including one Dump Truck (\$3,000.00), five Roll Offs (\$16,000.00), one Backhoe (\$4,000.00), and one Skid Steer (\$2,000.)
- Operation & Maintenance and Labor donated from the Spirit Lake Refuse Control Program (\$5,000.), and
- Tipping fee reduction at Tribal transfer station for construction debris (\$5,000.).
- Clean fill from a source approved by the Tribal Historic Preservation Officer (\$5,000).

Please keep in mind that our commitment to your project, estimated to be around \$40,000, will be a burden on the Tribe because it takes time away from normal everyday usage of the Refuse Control Equipment (excluding flooding emergencies which we often have), which is why I encourage you to consider requesting a Hardship Waiver in case you get awarded.

We share your concern in protecting the health and well-being of the residents of the Spirit Lake Nation and know how difficult it is to obtain the necessary funding to complete the proper cleanup and achieve healthy homes conditions for our people.

Sincerely,



Duane Jackson Jr, Director  
Refuse Control Services  
Spirit Lake Tribe



## SPIRIT LAKE PLANNING

PO Box 359

Fort Totten, ND 58335

Telephone: 701-766-1706 FAX: 701-766-1713

[www.spiritlakenation.com](http://www.spiritlakenation.com)

December 22, 2016

Mr. Art Carmona  
Brownfields Coordinator  
Spirit Lake Tribe  
P.O. Box 99, 816 Third Avenue North  
Fort Totten, ND 58335

**RE: Letter of Support EPA Brownfields Cleanup**

Dear Mr. Carmona:

This letter is written in support of your application to obtain EPA Brownfields Cleanup grants for several sites on the Spirit Lake Tribe Reservation.

We share your concern in protecting the health and well-being of the residents of the Spirit Lake Nation and know how difficult it is to obtain the necessary funding to complete the proper cleanup of buildings, demolish and proper disposal.

We are available to offer our expertise in the areas of land use planning, coordination and approval processes, as you complete the cleanups and rejuvenate the sites for reuse.

If you have any questions, please feel free to contact me at 701.766.1700.

Sincerely,

Ila McKay  
Director

**SPIRIT LAKE TRIBE  
RESOLUTION NO. A05-17-080**

**COPY**

**WHEREAS**, the Spirit Lake Tribe of Indians is a federally recognized Indian tribe acting under a revised Constitution dated May 5, 1960, approved by the Acting Commissioner, Bureau of Indian Affairs, July 14, 1961, and as subsequently amended which amendments were approved by the Commissioner, Bureau of Indian Affairs; and August 19, 1996; and

**WHEREAS**, the Constitution of the Spirit Lake Tribe generally authorizes and empowers the Spirit Lake Tribal Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribe and of the enrolled members thereof; and

**WHEREAS**, the Spirit Lake Tribal Council (hereinafter the Tribal Council) is the governing body of the Tribe and is empowered to administer the economic resources and financial affairs of the Tribe; and

**WHEREAS**, the Tribal Council reviews request to apply for F2017 EPA Brownsfields Cleanup Grant, submitted by Joshua Tweeton, EPA Director; and


**WHEREAS**, the grant provides funding to carry out cleanup activities at specific brownfields sites owned by the applicant. An applicant may request up to \$200,000 to address hazardous substances and/or petroleum contamination at a specified site. An applicant must be the sole owner of the site that is the subject of its Cleanup Grant proposal and must own the site by December 22, 2016, in order to be eligible to receive a cleanup grant; and

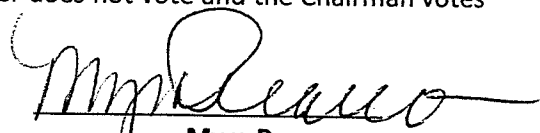
**WHEREAS**, If awarded the EPA Brownfields Cleanup grant will be designated for the Sheyenne Re-locatable homes on the Spirit Lake Tribe Reservation. The Cleanup Grant, per directive of the Tribal Council, Tribal Roads would commit to upgrade the site current infrastructure and prepare/establish the foundation of 20 homes in the next two years at a cost of \$15,000 per home as well as for the engineering and architectural planning of the new homes at \$3,500 per home. This would be a commitment of \$370,000. The Tribal Council and I are available to offer our advice and expertise as you complete the cleanups and rejuvenate the sites for re-use; and

**NOW THEREFORE BE IT RESOLVED**, that the Spirit Lake Tribal Council hereby approves by executing this resolution the submittal of the EPA Brownsfields Grant Application on behalf of the Spirit Lake Tribe.

**CERTIFICATION**

I, the undersigned as Secretary-Treasurer of the Tribal Council, do hereby certify that the Tribal Council is composed of six (6) members of whom five (5) were present, constituting a quorum for a Special Meeting duly called and convened on this 19<sup>th</sup> day of December, 2016 and approved this resolution by an affirmative vote of three (3) in favor, none (0) opposed, none (0) abstaining, and one (1) absent. (The Secretary-Treasurer does not vote and the Chairman votes only in case of a tie.)

  
Nancy Greene-Robertson  
Secretary- Treasurer

  
Myra Pearson  
Chairperson



# SPIRIT LAKE TRIBE

OFFICE OF THE TRIBAL SECRETARY / TREASURER

**NANCY GREENE-ROBERTSON**

P.O. BOX 359 • FORT TOTTEN, ND 58335 • PHONE 701-766-1223 • FAX 701-766-4126

December 12, 2016

Mr. Art Carmona  
Brownfields Coordinator  
Spirit Lake Tribe  
P.O. Box 99, 816 Third Avenue North  
Fort Totten, ND 58335

Dear Mr. Carmona:


This letter is written in support of your application to obtain an EPA Brownfields Cleanup grant for the Sheyenne Re-locatable homes on the Spirit Lake Tribe Reservation. This will enhance the health and welfare of our people on long-term basis despite the hardship we could be facing on the short term.

The Tribal Council and I share your concern in protecting the health and well-being of the residents of the Spirit Lake Nation and know how difficult it is to obtain the necessary funding to complete the proper cleanup. In the past, our leadership has accepted the donated re-locatable homes due to the desperate need of housing on the Reservation. We have made every effort to maintain several of them until your office informed us of the serious health effects that our people could be exposed to due to presence of asbestos, lead and other contaminants. We have reexamined the cleanup alternatives you advanced and concluded that the best option would be to demolish those structures for as far as the funding will go and establish a more suitable environment for new construction. We have asked that children and other sensitive population not to live in those occupied homes awaiting their relocation into a more suitable place.

If rewarded the Cleanup Grant, and per directive of the Tribal Council, Tribal Roads would commit to upgrade the site current infrastructure and prepare/establish the foundation of 20 homes in the next two years at a cost of \$15,000 per home as well as for the engineering and architectural planning of the new homes at \$3,500 per home. This would be a commitment of \$370,000. The Tribal Council and I are available to offer our advice and expertise as you complete the cleanups and rejuvenate the sites for re-use.

If you have any questions, please feel free to contact me at (701)766-1223.

Sincerely,

  
Nancy Greene-Robertson





# SPIRIT LAKE TRIBE

OFFICE OF TRIBAL REALTY

P.O. BOX 359 • FORT TOTTEN, ND 58335 • PHONE 701-766-1746 OR 701-766-1718  
FAX 701-766-1727

December 12, 2016

Mr. Art Carmona  
Brownfields Coordinator  
Spirit Lake Tribe  
P.O. Box 99, 816 Third Avenue North  
Fort Totten, ND 58335

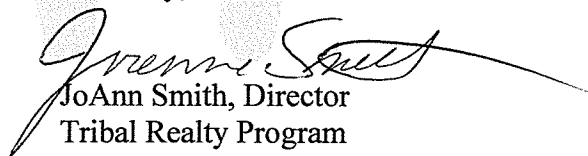
Dear Mr. Carmona:

On behalf of the Spirit Lake Tribal Realty of the Spirit Lake Nation, I am pleased to support the Brownfields Cleanup Grants that the Tribal Environmental Protection Administration is applying for.

Our Program is the official record keeper of all Tribal Lands inventory. It maintains all land transactions and any changes to land status. For the re-locatable homes sites, we will put official documentation on what occurs on the lands, and will document whether any institutional control, if any, are recommended. We will also be available to discuss reuse restrictions the Tribal Environmental Protection Administration would consider as part of the development of their cleanup plan.

We are appreciative that you have sought our input on your environmental projects. We will be glad to share with you our knowledge, years of experience, and wisdom.

Sincerely,

  
JoAnn Smith, Director  
Tribal Realty Program

SPIRIT LAKE TRIBAL HOUSING PROGRAM  
PO BOX 359  
FORT TOTTEN, ND 58335  
(701) 766-1817



12/13/16

Mr. Art Carmona  
Brownfields Coordinator  
Spirit Lake Tribe  
P.O. Box 99, 816 Third Avenue North  
Fort Totten, ND 58335

Dear Mr. Carmona:

The Tribal Housing Program would like to extend its support for the Spirit Lake Tribe's Environmental Administration in its pursuit of EPA Brownfields Cleanup grant for the re-locatable homes. Any funding that can be secured to eliminate harmful contamination from potential housing units, would allow more Tribal members and families to secure improved living conditions.

There are currently twelve unoccupied re-locatable homes of concern in Benson County that the U.S. EPA Contractor (START) has identified as hazard to our community. We also have another fifteen occupied homes that are similar in vintage to those tested by START that are suspected to share similar hazards. As soon as we were informed of the environmental findings, we began the planning process to relocate the fifteen families. We asked that no children and elders be allowed to live in those homes. As this unexpected crisis began to develop, we closely worked with the Tribal Council and Tribal Housing Authority and I am hoping to be able to properly address the relocation of the families in the near future.

If the Tribe is awarded the grant, we like to demolish all re-locatable homes and work towards using the existing infrastructure to build healthy and energy efficient homes in the same area to help alleviate the much needed housing of over 300 Tribal families that are currently on a waiting list. Tribal Housing will work concurrently with Tribal Departments in the development of the area and construction of at least more 20 housing units at this site.

Please let us know if we can be of any assistance in the cleanup process.

Sincerely,

Elaine Robinson, Manager

December 7, 2016

Mr. Art Carmona  
Brownfields Coordinator  
Spirit Lake Tribe  
P.O. Box 99, 816 Third Avenue North  
Fort Totten, ND 58335

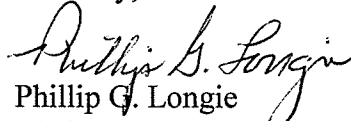
Dear Mr. Carmona:

On behalf of the Elder members of the Spirit Lake Dakota Nation, I am pleased to support the Brownfields Cleanup Grants that the Tribal Environmental Administration is applying for. If we can cleanup our Brownfields sites and bring them back into productive reuses, we can make our land safer for ourselves and future generations, eliminate eyesores, and provide needed job and recreational opportunities.

The people of the Spirit Lake Dakota Nation traditionally and historically have respect for Mother Earth and all life. We encourage projects that honor our traditional values including an appreciation for land, air, water, and nature. In cleaning up environmental contamination, we will move back into maintaining a balance with nature and restore a better quality of life for our Tribal members.

We are appreciative that you have sought our input on your environmental projects. We will be glad to share with you our knowledge, years of experience, and wisdom.

Sincerely,

  
Phillip C. Longie  
Chairman  
Spirit Lake Elders Board

**St. Michael's Catholic Church**  
**136 1<sup>st</sup> St., St. Michael, ND**

---

PHONE: 701-766-4151

\*

P.O. BOX 958

\*

Devils Lake, ND 58301

December 7, 2016

Mr. Art Carmona  
Brownfields Coordinator  
Spirit Lake Tribe  
P.O. Box 99, 816 Third Avenue North  
Fort Totten, ND 58335

Dear Mr. Carmona:

I enthusiastically support your efforts in applying for a Brownfields cleanup grant for the Spirit Lake Reservation.

In particular, I am interested in seeing the re-locatable homes cleaned up and demolished so that they are no longer a health and environmental threat to the St. Michael community and all communities of the Spirit Lake Reservation. The Catholic Church has a vested interest in the welfare of its community members and all others living throughout our Reservation, particularly the elders, the children and the sick.

I have expressed my concerns to you about the abandoned re-locatable homes and the danger they may cause if used to conduct illegal activities, and would like to see them cleaned up, demolished and safely disposed of. Now, I am hopeful that funding under a Brownfields Cleanup grant will assist you in making positive changes that will greatly benefit the Tribe.

Please let me know if I can assist you in any way as you proceed through the project. Please contact me at (701)766-4151

Sincerely,



Fr. Paul Schuster

### **III.B. Threshold Criteria for Cleanup Grants**

#### **Applicant Eligibility**

##### **III.B.1 Applicant Eligibility**

Federally Recognized Tribe – The Spirit Lake Tribe is an eligible applicant under the category of a Federally Recognized Indian Tribe. It was established by Treaty in 1867 between the United States Government and the Sisseton Wahpeton Sioux Bands.

##### **III.B.2 Site Ownership**

The site is owned by the Spirit Lake Tribe. The Sheyenne Re-locatable Homes are located on Tribal Trust Land on the Spirit Lake Reservation and managed by Spirit Lake Tribal Housing Program, an entity of the Spirit Lake Tribe.

##### **III.B.3 Basic Site Information**

(a) Name of site: Sheyenne Re-locatable Homes (b) Address of site: 7591 35th Street, Sheyenne, Benson County, North Dakota 58374 (c) Current owner of site: Spirit Lake Tribe (d) If you are not the current owner, the date you plan to acquire ownership of the site (required for cleanup grants):

##### **III.B.4 Status and History of Contamination at the Site**

(a) Whether this site is contaminated by petroleum or hazardous substances: The contamination is hazardous substances. (b) The operational history and current use(s) of the site: The re-locatable houses are on Tribal Trust land. Prior to that time the land was in a natural state. The houses are abandoned and/or Tribal Housing is in the process of finding places for remaining families to live with the intent of having the houses abandoned in the near future. The houses are from Minot Air Force Base and were previously used as family base housing. They were built between mid-1940 through mid-1960s. In 2004, they were transferred from the base to the Tribe through the Operation Walking Shield Program, which was authorized funding in August 2001 under HUD's Rural Housing and Economic Development grants to manage and coordinate the relocation of approximately 258 houses from Minot Air force Base to five Indian reservations in three states. The Spirit Lake Tribe received 86 of the re-locatable housing units. (c) Environmental concerns, if known, at the site: Based upon the recent Phase II Environmental Site Assessment, Asbestos, Lead-Based Paint and Mold are environmental concerns. See III.B.6 and attachment F. below for details on the Phase II Environmental Site Assessment. (d) how the site became contaminated, and to the extent possible, describe the nature and extent of the contamination: Asbestos and lead-paint were typical building products used during the period of the houses, and it was not recognized until recent years and eventually regulated that they could become environmental and health hazards. Mold is very difficult to stop once it permeated building products. Normal deterioration has made it difficult and not cost-effective to maintain. Tribe would like to remediate and/or cleanup and remove the structures depending upon what would be the most effective use of the funding when bids received from contractors.

### **III.B.5 Brownfields Site Definition**

The Spirit Lake Tribe affirms that the site is: (a) not listed or proposed for listing on the National Priorities List; (b) not subject to unilateral administrative orders, court orders, administrative orders on consent, or judicial consent decrees issued to or entered into by parties under CERCLA; and (c) not subject to the jurisdiction, custody, or control of the United States government. (Note: Land held in trust by the United States government for an Indian tribe is eligible for Brownfields funding.)

### **III.B.6 Environmental Assessment Required for Cleanup Proposals**

The Phase II ASTM Environmental Site Assessment (ESA) was conducted under a Targeted Brownfields Assessment by EPA's START Contractor in November 2014. It confirmed the presence of Contaminants of Concern (COCs) at the Sheyenne Re-locatable Homes. The following is a list of the COCs and associated media identified by START at the Site:

- Asbestos Containing Material (ACM) has been identified throughout the Sheyenne Re-locatable Homes.
- Lead-Based Paint (LBP) has been identified in a small isolated quantity in one of the Sheyenne Re-locatable Homes (Unit #15).
- Mold has been identified in various buildings of the Sheyenne Re-locatable Homes.

ACM: Based on the laboratory results reported for the 93 positive ACM samples, asbestos is present in all 12 of the Sheyenne Re-locatable Homes. ACM is considered to be a contaminant of concern (COC) in the buildings. Listed below are the estimated total amounts in sq. ft. and ln. ft. of confirmed ACM present in the 12 buildings on site:

- 12x12 Floor Tiles and Black Mastic (4-13% Chrysotile) = 10,870 sq. ft.
- Joint Compound (Ceilings) (2-4% Chrysotile) = 11,842 sq. ft.
- Joint Compound (Walls) (2-4% Chrysotile) = 29,832 sq. ft.
- 12 Building Totals = 52,544 sq. ft.

Based on the results of the ACM survey: Asbestos: Asbestos is present in the Sheyenne Re-locatable Homes. ACM is considered to be a contaminant of concern (COC) in relation to the Site. Lead-Based Paint (LBP): Based on the results of the XRF screening, LBP is not located in most of the Sheyenne Re-locatable Homes. LBP has been identified in a small (2 sq ft) area at Unit #15 only. LBP is considered to be a COC of minor concern. Mold: Based on the results of the mold inspection, evidence of Mold was observed in various buildings at the Sheyenne Re-locatable Homes. Mold is considered to be a COC.

### **III.B.7 Enforcement or Other Actions**

The Spirit Lake Tribe is not aware of any ongoing or anticipated enforcement actions related to the Sheyenne Re-locatable Homes site. Also, it is not aware of any inquiries or orders from federal, state, or local government entities that the applicant is aware of regarding the

responsibility of any party (including the applicant) for the contamination or hazardous substances at the site.

### **III.B.8 Sites Requiring a Property-Specific Determination**

The site does not require a property specific determination.

### **III.B.9 Site Eligibility and Property Ownership Eligibility**

#### **III.B.9.a Property Ownership Eligibility - Hazardous Substance Sites**

##### **III.B.9.a.1 CERCLA §107 Liability**

The Spirit Lake Tribe affirms it is not potentially liable for contamination at the site under CERCLA §107 (e.g., as a current owner or operator of a facility, an owner or operator of a facility at the time of disposal of a hazardous substance, a party that arranged for the treatment or disposal of hazardous substances, or a party that accepted hazardous substances for transport to disposal or treatment facilities at the site) because it is eligible for one of the CERCLA liability protections or defenses. It affirms it meets the requirements of the innocent landowner defense under (CERCLA §107(b)(3) and 101(35)(A)). It also has CERCLA liability defense in being an Indian Tribe. The Tribe took reasonable steps with regard to the contamination at the site by providing maintenance. When the structures were built, asbestos building products were not recognized as health and environmental hazards. Throughout the years, the Tribe has provided maintenance on the structures and attempted to manage any contamination, but through normal deterioration it is no longer cost effective and the Tribe would like to remediate and/or cleanup and remove the structures depending upon what would be the most effective use of the funding when bids received from contractors. The Tribe has not arranged for the disposal of hazardous substances at the site or transported hazardous substances to the site.

##### **III.B.9.a.2 Information on Liability and Defenses/Protections**

###### **III.B.9.a.2.a Information on the Property Acquisition**

The Tribe acquired the site under Treaty with the U.S. Government in 1867. The houses were acquired in 2004 through the Operation Walking Shield Program, which was authorized funding in August 2001 under HUD's Rural Housing and Economic Development grants to manage and coordinate the relocation of approximately 258 houses from Minot Air force Base to five Indian reservations in three states. The Spirit Lake Tribe received 86 of the re-locatable housing units.

###### **III.B.9.a.2.b Timing and/or Contribution Toward Hazardous Substances Disposal**

The Tribe has not caused or contributed to any releases of hazardous substances at the site. When the structures were built, asbestos building products were not recognized as health and environmental hazards. It wasn't until recent years, that it became apparent and eventually regulated by Standards and Regulations that lead and asbestos could become contamination

issues. The Tribe affirms it has not at any time arranged for the disposal of all hazardous substances at the site.

#### **III.B.9.a.2.c Pre-Purchase Inquiry**

Pre-Purchase inquiry was not a typical process at the time the site was acquired in 1867. Recently, the Tribe conducted updated Phase II ASTM Environmental Site Assessments as outlined in detail in above Section e (Environmental Assessment Required for Cleanup Proposals).

#### **III.B.9.a.2.d Post-Acquisition Uses**

The Spirit Lake Tribal Housing Program has been renting the houses to Tribal families. The houses are abandoned with the commitment of Tribal Council to build energy efficient housing once the contaminated houses are cleaned up.

#### **III.B.9.a.2.e Continuing Obligations**

##### **The Tribe has taken reasonable steps to:**

Stop any continuing releases; Prevent any threatened future release; and Prevent or limit exposure to any previously released hazardous substance: Throughout the years, the Tribe has provided maintenance on the structures and attempted to manage any contamination, but through normal deterioration it is no longer cost effective and the Tribe would like to remediate and/or cleanup and remove the structures depending upon what would be the most effective use of the funding when bids received from contractors.

##### **The Tribe confirms its commitment to:**

Comply with all land-use restrictions and institutional controls; Assist and cooperate with those performing the cleanup and provide access to the property; Comply with all information requests and administrative subpoenas that have or may be issued in connection with the property; and Provide all legally required notices.

The Tribe confirms it will comply with all land-use restrictions and institutional controls; Assist and cooperate with those performing the cleanup and provide access to the property; Comply with all information requests and administrative subpoenas that have or may be issued in connection with the property; and Provide all legally required notices. The Brownfields Tribal Response Program has established procedures for Public Notification and documentation of Institutional Controls. The staff has received training in OSHA 40-Hour, Lead, and Asbestos Training, has conducted other environmental cleanups, will oversee the cleanup of the houses, hire a certified contractor(s) to conduct the cleanup.

#### **III.B.9.b Property Ownership Eligibility - Petroleum Sites**

##### **III.B.9.b.a Current and Immediate Past Owners**

Does Not Apply.

##### **III.B.9.b.b Acquisition of Site**

Does Not Apply.

##### **III.B.9.b.c No Responsible Party for the Site**



Does Not Apply.  
III.B.9.b.d Cleaned Up by a Person Not Potentially Liable  
Does Not Apply.  
III.B.9.b.e Relatively Low Risk  
Does Not Apply.  
III.B.9.b.f Judgments, Orders, or Third Party Suits  
Does Not Apply.  
III.B.9.b.g Subject to RCRA  
Does Not Apply.  
III.B.9.b.h Financial Viability of Responsible Parties  
Does Not Apply.

### **III.B.10 Cleanup Authority and Oversight Structure**

#### **III.B.10.a Cleanup Oversight**

The Tribe, being a sovereign entity, has not participated in the State Voluntary Cleanup Program. Instead it will consult with EPA to ensure the cleanup is protective of human health and the environment. In addition to coordinating activities with EPA, the Spirit Lake Environmental Protection Administration Office has been working towards building its environmental capability. Several staff members have been trained and are certified in a number of environmental courses including OSHA 40-Hour HazWoper, asbestos, lead and other courses. Progress has been made towards establishing a Brownfields Inventory, providing oversight on several assessments and cleanups, conducting environmental outreach. When hiring contractors, Federal and Tribal procurement procedures are followed as well as the Tribal TERO procedures. Any RFPs and Agreements or Contracts are reviewed and approved by Tribal Administration before being implemented. Our past and current Brownfields procedures include using the RFP and Agreement templates that EPA Region 8 recommended, which are then filled-out and reviewed and internally approved by the Tribe. The RFP is distributed. The bids received are reviewed and rated by a panel and Agreement is written with the selected contractor. The Tribe owns the property and houses and therefore access is not a problem.

#### **III.B.10.b Access to Adjacent Properties**

The Tribe will not have an issue with access to adjacent properties because they are located on Tribal Trust Land under the authority of the Tribe.

### **III.B.11 Statutory Cost Share (See also IV.E on Leveraging)**

#### **III.B.11.a Meet Required Cost Share**

The Director of the Spirit Lake Refuse Control Program has provided the following cost share match. The Director also states in a support letter the Tribe is requesting a Hardship Waiver as \$40,000 will be a burden on the Tribe because it takes time away from normal everyday usage of the Refuse Control Equipment (excluding flooding emergencies which we often have).

- Equipment usage for a 2-month period, including one Dump Truck (\$3,000.00), five Roll Offs (\$16,000.00), one Backhoe (\$4,000.00), and one Skid Steer (\$2,000.)
- Operation & Maintenance and Labor donated from the Spirit Lake Refuse Control Program (\$5,000.), and
- Tipping fee reduction at Tribal transfer station for construction debris (\$10,000.)

### **III.B.11.b Hardship Waiver**

It will be difficult for the Tribe to provide the Cost-Share and it is requesting a Hardship Waiver for the 20% Cost-Share. **(See Attachment I for Hardship Waiver Request.)**

### **III.B.12 Community Notification**

The Tribal Environmental Administration Office developed a Public Notice that announced the Spirit Lake Tribe's intentions to apply for a Brownfields Cleanup grant, including the location of the cleanup site and where to review and make comments on the grant proposal. The notices were placed in established locations where the Tribe typically places notices and information pertinent to the residents of the Reservation. It was also announced on the local radio station and listed twice in the Devils Lake Journal newspaper. In addition, the applications were discussed with the Tribal Council and coordinated with Tribal Housing and Planning Offices. Although the Tribal Environmental Administration staff spoke to various individuals and groups about the grant proposal and answered their questions, we did not receive any requests to review the proposal. A Sign-In Sheet was filled- out and notes were taken. An interesting discussion occurred at the Public Meeting. Initially, internal Tribal decision was made to remediate the structures. But, at the Public Meeting, several Tribal Programs were present including Tribal Housing and Tribal Planning along with two Tribal Council representatives and it was decided to cleanup and remove the structures as it would not be cost effective to remediate them. There would also be future concerns about maintaining residual and/or contained contamination and its effects on the residents. **(See Attachment E for Community Notification documentation).**

### **Attachment B – Letter from Tribal Environmental Authority**

The applicant applying for this cleanup grant is the Tribal Environmental Authority and therefore does not need to submit a letter from the Tribal Environmental Authority.

## Application for Federal Assistance SF-424

\* 1. Type of Submission:

- ☐ Preapplication  
☒ Application  
☐ Changed/Corrected Application

\* 2. Type of Application:

- ☒ New  
☐ Continuation  
☐ Revision

\* If Revision, select appropriate letter(s):

\* Other (Specify):

\* 3. Date Received:

12/22/2016

4. Applicant Identifier:

5a. Federal Entity Identifier:

5b. Federal Award Identifier:

State Use Only:

6. Date Received by State:

7. State Application Identifier:

### 8. APPLICANT INFORMATION:

\* a. Legal Name:

Spirit Lake Tribe

\* b. Employer/Taxpayer Identification Number (EIN/TIN):

45-0314494

\* c. Organizational DUNS:

0604879150000

d. Address:

\* Street1:

816 3rd Avenue

Street2:

\* City:

Fort Totten

County/Parish:

\* State:

ND: North Dakota

Province:

\* Country:

USA: UNITED STATES

\* Zip / Postal Code:

58335-0359

e. Organizational Unit:

Department Name:

Division Name:

f. Name and contact information of person to be contacted on matters involving this application:

Prefix:

\* First Name:

Myra

Middle Name:

\* Last Name:

Pearson

Suffix:

Title:

Chairperson

Organizational Affiliation:

\* Telephone Number:

701 766 1712

Fax Number:

\* Email:

mpearson@spiritlakenation.com

## Application for Federal Assistance SF-424

### \* 9. Type of Applicant 1: Select Applicant Type:

I: Indian/Native American Tribal Government (Federally Recognized)

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

\* Other (specify):

### \* 10. Name of Federal Agency:

Environmental Protection Agency

### 11. Catalog of Federal Domestic Assistance Number:

66.818

CFDA Title:

Brownfields Assessment and Cleanup Cooperative Agreements

### \* 12. Funding Opportunity Number:

EPA-OLEM-OBLR-16-09

\* Title:

FY17 Guidelines for Brownfields Cleanup Grants

### 13. Competition Identification Number:

NONE

Title:

### 14. Areas Affected by Project (Cities, Counties, States, etc.):

Add Attachment

Delete Attachment

View Attachment

### \* 15. Descriptive Title of Applicant's Project:

Spirit Lake Tribe Brownfields Assessment and Cleanup

Attach supporting documents as specified in agency instructions.

Add Attachments

Delete Attachments

View Attachments

**Application for Federal Assistance SF-424****16. Congressional Districts Of:**\* a. Applicant \* b. Program/Project 

Attach an additional list of Program/Project Congressional Districts if needed.

Add Attachment

Delete Attachment

View Attachment

**17. Proposed Project:**\* a. Start Date: \* b. End Date: **18. Estimated Funding (\$):**

* a. Federal	<input type="text" value="200,000.00"/>
* b. Applicant	<input type="text" value="40,000.00"/>
* c. State	<input type="text" value="0.00"/>
* d. Local	<input type="text" value="0.00"/>
* e. Other	<input type="text" value="0.00"/>
* f. Program Income	<input type="text" value="0.00"/>
* g. TOTAL	<input type="text" value="240,000.00"/>

**\* 19. Is Application Subject to Review By State Under Executive Order 12372 Process?**

- ☐ a. This application was made available to the State under the Executive Order 12372 Process for review on .
- ☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review.
- ☒ c. Program is not covered by E.O. 12372.

**\* 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)**☐ Yes ☒ No

If "Yes", provide explanation and attach

Add Attachment

Delete Attachment

View Attachment

**21. \*By signing this application, I certify (1) to the statements contained in the list of certifications\*\* and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances\*\* and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)**

☒ \*\* I AGREE

\*\* The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

**Authorized Representative:**

Prefix:  \* First Name:

Middle Name:

\* Last Name:

Suffix:

\* Title: \* Telephone Number:  Fax Number: \* Email: \* Signature of Authorized Representative:  \* Date Signed: